

ASSISTANT COMMISSIONERS – SELECTION AND ROLE

1. Members considered a number of issues relating to the appointment of Assistant Commissioners (ACs) at the Commission meetings on 19 October and 20 December 2010. Members concluded that the precise nature of the relationship between the Secretariat analysts, the ACs and Members was very important and that this relationship should be more clearly specified and brought back to a future Commission meeting for further consideration. Members also made a number of comments on the draft job specification for ACs. This draft job specification was then further revised via correspondence after the meeting.

2. This paper provides further information relating to ACs and the process for their appointment. Specifically, it covers the following areas:

- i. the relationship between the Secretariat, the ACs and Members;
- ii. the various stages of the selection process and when they might be undertaken;
- iii. the pool of potential candidates to be used when seeking applications for the role of AC;
- iv. the revised job specification.

3. As Members are aware, the proposed changes to the Bill contained within the package of concessions announced by the Government on 31 January include a reference to Public Hearings. Members will also be aware that the precise purpose and nature of these Public Hearings is at the time of writing only beginning to emerge. Specifically, it is still unclear as to whether an AC will be required at a Public Hearing (though such a stipulation is unlikely) or whether, depending on the purpose of Public Hearings and subsequent decisions by Members as to how the Commission should approach Public Hearings, it would be advantageous for an AC to attend Public Hearings irrespective of any requirement for them to do so.

4. In the absence of such clarity, the majority of what follows in this paper is based on the expected role of ACs as stipulated by those clauses that are well-established in the Bill – that is to say, it assumes a “paper-based” role for ACs with no attendance at (and indeed no existence of) Public Hearings. However the involvement of ACs in Public Hearings should have little effect on consideration of the nature of the relationship between the Secretariat, the ACs and the Members given that the focus of that discussion is necessarily on processes that occur during the consideration of written representations. Similarly, there is still merit in considering the revised job specification in its current draft form, as should Members decide that ACs should attend Public Hearings then the relevant skills and competences can simply be added to the current draft, if indeed any such additions will be required at all. The one area where major changes may be required following the introduction of Public Hearings is the timing of the selection process. If Public Hearings are required to take place during the latter half of the consultation period on provisional recommendations, and if a decision were taken that it would be advantageous for ACs to attend Public Hearings, then ACs will be required to

be available in November / December 2011 rather than effectively only beginning to work in March 2012 as currently planned.

The relationship between the Secretariat, the ACs and Members

5. Further to the discussion at the last meeting, the attached **Appendix A** is an attempt to depict the relationship between the Secretariat, the ACs and the Members. It shows the flow of information between each of the three groups involved in the process and describes who is responsible for considering what, and at what stage.

6. The key points that Members are invited to note or consider are:

- i. We suggest that the analysis provided by the Secretariat as part of the AC's Brief will be in the form of an outline only and will cover, for example, issues such as whether representations are valid in terms of satisfying the rules within the Act. It was never considered that the Secretariat should provide detailed analysis or weighing of argument and counter-argument – this is for the AC to provide.
- ii. It will be particularly important for Members to confirm the purpose and nature of their considering of the AC's Brief at the point before it goes to ACs. We suggest that the purpose would be to quality assure the Secretariat's work and make sure that the counter-proposals had been interpreted correctly and that it should not be – or be seen to be – an opportunity to influence the process of consideration by an AC.
- iii. Depending on the answer to the point immediately above, extra provision may have to be included in the plan to allow time both for Members' consideration of the AC's Brief and for the Secretariat to incorporate any amendments deemed necessary following such consideration. It will be possible to incorporate this in the next version of the plan which will be drafted following greater clarity on the new provisions in the Bill.

The stages of the selection process

7. The Secretariat have given further thought to the various stages of the selection process and how and when they might be undertaken. A draft timetable showing the different stages is attached at **Appendix B**. **Please note that this is provided at this stage largely for information only**. As noted above, the proposed introduction of Public Hearings could have major ramifications for the recruitment timetable if it is thought necessary or desirable for ACs to be present at the Hearings. Nevertheless Members are invited to indicate any particular stages of the process on which they would like more information. Members are also invited to confirm that they are content with the proposed package of “key recruitment policies” which will be provided to them for clearance. This package will include the job advert and details of the strategy for advert placement, the eligibility criteria, assessment criteria, a diversity strategy and associated proposals for monitoring, details of remuneration and T&Cs, the selection process and the information pack to be provided to candidates.

The pool of potential candidates

8. Following the previous meeting, Mr Pringle suggested that the Secretariat consider whether individuals other than Barristers may have qualities and abilities that would make them suitable for appointment as an AC, with a view to widening the eligible pool of candidates for the review after the forthcoming one. However, if this idea has merit then the possibility of making such a change for the forthcoming review should also be considered.

9. Whilst these appointments are not directly regulated by the Office of the Commissioner for Public Appointments (OCPA), Members have agreed that the Commission should nevertheless seek to follow best practice guidelines that OCPA set out. One of the seven key Principles that OCPA work to is selection based on merit, defined as

“the well-informed choice of individuals who through their abilities, experience and qualities match the need of the public body in question.”

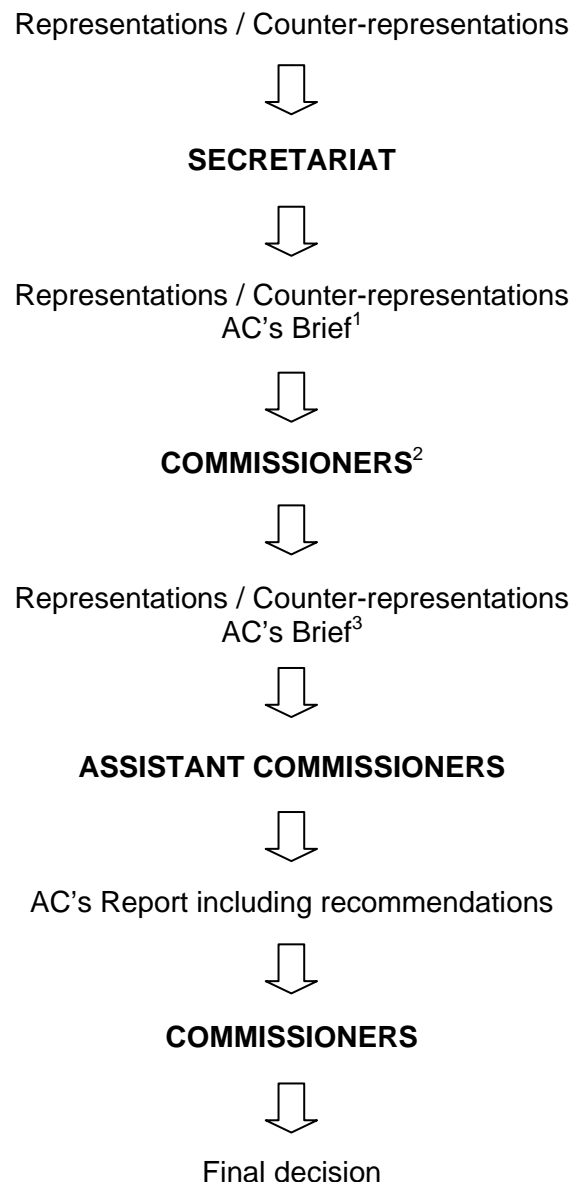
Accordingly, bodies need to be very careful not to artificially limit the eligible pool of candidates by introducing unjustifiable criteria.

10. In the context of an appointment to the courts or tribunals judiciary, there is a clear (and indeed statutory) eligibility requirement for candidates to have a recognised professional legal qualification and a certain number of years post-qualification relevant experience. However, whilst the role of AC has traditionally been filled by legal professionals (usually barristers – mainly QCs – but also some solicitors) it is not clear why professional legal qualification and experience should be an ‘essential’ criteria for appointment as an AC, as opposed to a ‘desirable’ one. We would therefore welcome Members’ views on what – if any – justification there may be for restricting the eligible pool to legal professionals, rather than widening it to include, for example, individuals who have experience as: a) non-legal members of tribunals or other quasi-judicial bodies, or b) civil servants dealing with large-scale and sensitive policy development involving public consultation. If the decision is taken that the pool should be widened, the Secretariat do not envisage that it would significantly affect the preparations for the recruitment exercise, as the qualities and abilities for that (which do not specify a requirement for a legal professional) are already near-finalised.

The revised job specification

11. Following the last Commission Meeting, the Secretary circulated a further version of the AC job specification for comment by Members. The latest version of the job specification, with the most recent of Members’ comments incorporated, is attached at **Appendix C**. As noted above, this job specification may be required to be subject to further amendment upon clarification of the proposals for Public Hearings and the potential role in them envisaged for ACs. Members are invited to confirm that they are content with the changes made, and note that it the draft will be subject to further change once the provisions relating to Public Hearings are clear.

Flow-chart showing consideration of representations and analysis



Notes

¹AC's Brief (one for each region) contains the following:

- The background to the review
- General information about the review area (for example, electorates)
- An explanation of the provisional recommendations
- An outline analysis of the representations and counter-representations (see accompanying paper).

²Members will need to confirm the purpose of their consideration of the AC's Briefs before they are received by ACs (see accompanying paper).

³At this stage, AC's Brief will incorporate any amendments deemed necessary following consideration by Commissioners.

Appendix B

Key Activities	Start Date	End Date	Progress/Dependencies/Comments
Draft key recruitment policies: - Advert (text and strategy for placement) - Eligibility criteria - Assessment criteria - Diversity strategy and monitoring - Remuneration and T&Cs - Selection process - Information pack	8/3/11	31/3/11	Provisional end date only. Work needs to be completed in time for circulation to Commissioners prior to Commission Meeting
Decide on timing of references	23/3/11	31/3/11	
Discuss emerging recruitment policies with Cabinet Office Proprierty & Ethics team	1/3/11	15/3/11	
Discuss emerging recruitment policies with EDD	1/3/11	15/3/11	
Agree key recruitment policies with Commissioners	11/4/11	11/4/11	Provisional date only. Depends on date of Commission meeting
Arrange via EDD for update submission to go to DPM with decisions on key recruitment policies	3/5/11	13/5/11	
Case Management System (CMS) for applications: determine system and plan for implementation		1/6/11	
Refine key recruitment policies following feedback from DPM	16/5/11	27/5/11	
Advert goes live	20/6/11		
Advert closing date	8/7/11		Three weeks after advert goes live
Data entry to CMS	4/7/11	ongoing	
Eligibility sift	5/9/11	9/9/11	
Paper selection exercise	12/9/11	23/9/11	
Interviews	3/10/11	21/10/11	
Production of monitoring statistics i.e. numbers, diversity breakdowns etc..	17/10/11	24/10/11	
Recommendations for appointment to Commissioners	24/10/11		
Recommendations for appointment to Deputy Prime Minister	31/10/11		
Appointment letters, letters to those not selected and final availability check	14/11/11		
Confirmation of utilization	9/1/12		
Assistant Commissioners receive briefs and write reports	12/3/12	30/3/12	

Assistant Commissioners, Boundary Commission for England Job and Person Specification

The Boundary Commission for England ('BCE') conducts regular reviews of the Parliamentary constituency boundaries across England, under the terms of the Parliamentary Constituencies Act 1986 (as amended), and makes recommendations for change to Government and Parliament. Part 2 of the Parliamentary Voting System and Constituencies [Act 2011] has significantly revised the statutory framework and requires the BCE to complete a general review and issue its final report on that by 1 October 2013. That review is underway, and the BCE is seeking to appoint a number of Assistant Commissioners to undertake a critical stage of the review process.

Role & Responsibilities of Assistant Commissioner

An Assistant Commissioner will be required to read and analyse the following information in respect of a specified area of England:

1. The provisional recommendations of the BCE in respect of where the Parliamentary constituency boundaries should be drawn;
2. The representations received in respect of those provisional recommendations;
3. Subsequent comments received on the representations made; and
4. Any accompanying digest, summary or compilation of the representations and subsequent comments provided by the BCE Secretariat.

Having reviewed all of this information, an Assistant Commissioner will then be required to apply the relevant statutory principles and rules and compile a formal written report to the BCE, providing any comment as necessary on the digest provided by the Secretariat (together with any further analysis of the representations and subsequent comments as may be required to ensure that the BCE is properly informed about their contents) and stating and giving reasons for their opinion as to whether – and if so to what extent – revisions should be made to the BCE's provisional recommendations.

Skills and Abilities required

Ability to quickly read and analyse large amounts of written information and absorb detail.

Objectivity, integrity and independence of mind. NB individuals with an association with a political party within the last 10 years will not be eligible, due to the perceived political sensitivity of boundary review work.

Sound judgement.

Ability to organise time effectively and to produce clear and well-reasoned written reports within a prescribed timeframe.

Ability to understand and apply the relevant statutory principles, rules and law relating to the way in which the BCE is required to determine constituency boundaries.

Candidates will be required to have gained seven years' legal experience in practice as a barrister or a solicitor.

[A closing paragraph to stipulate that candidates must have a reasonable expectation of being able to be available to work during the period required, at the expected notice – this will be added once the period in question has been clarified.]